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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,868	08/18/2003	Vinh Thanh Vu	125-001US	3334
22897	7590	05/05/2006	EXAMINER	
DEMONT & BREYER, LLC SUITE 250 100 COMMONS WAY HOLMDEL, NJ 07733			SAN MARTIN, EDGARDO	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/642,868

Applicant(s)

VU, VINH THANH

Examiner

Edgardo San Martin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 26-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 and 26-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 6 is objected to because of the following informalities:
 - Claim 6 should depend upon claim 4, instead of claim 3, in order to avoid 35 USC 112 issues because there is lack of antecedent basis for the limitations referring to "the skirt" in line 3.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 3, 5, 9, 10, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Huyett (US 6,230,460).

With respect to claim 1, Huyett teaches an article for use with spherical vibration-control elements (Figs.1 – 3), wherein the article comprises a plate (Fig.2, Item 20), wherein the plate has a first major surface and a second major surface, and further wherein the first major surface comprises a number, n , (Fig.1, Item 24) of spaced wells (Fig.2, Item 26); the wells each define a circular opening at the first major surface; and the wells are suitably sized so that when they receive the spherical vibration control

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elements (Fig.2, item 24), contact between the vibration control element and the first major surface occurs at substantially every point along the circular opening (Fig.2)(Col.2, Line 49 – Col.3, Line 2 and Col.3, Lines 34 – 58).

With respect to claim 2, Huyett teaches wherein the number, n , is between 8 and 25, inclusive (Fig.1; Col.3, Lines 50 – 58).

With respect to claim 3, Huyett teaches further comprising a top plate (Fig.2, Item 22), wherein, in use with the vibration-control elements, the top plate is disposed above the plate (Fig.2, Item 20), proximal to the first major surface and distal to the second major surface (Fig.2).

With respect to claim 5, Huyett teaches wherein the circular opening has a diameter in the range of between about 1/2 inch to about 1-1/4 inches (Col.2, Lines 57 – 65).

With respect to claims 9 and 10, Huyett teaches further comprising a plurality (Fig.1, Item 24) of the vibration-control elements (Figs.1 and 2, Item 24), wherein, in use of the article, the vibration-control elements (Fig.2, Item 24) are disposed in the wells (Fig.2, Item 26) and abut a major surface (Fig.2, Item 28) of the top plate (Fig.2, Item 22)(Col.2, Lines 49 – 56).

With respect to claims 12 and 13, Huyett teaches wherein the vibration-control elements (Fig.2, Item 24) are resilient balls (Col.2, Lines 66+).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4, 6 – 8, 11, 14 – 23 and 26 – 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huyett (US 6,230,460) in view of Bizlewicz (US 6,895,870).

With respect to claims 4 and 6, Huyett teaches the limitations discussed in a previous rejection, but fail to disclose further comprising a skirt, wherein the skirt depends from a marginal region of the top plate, and further wherein the skirt extends toward the plate; and wherein the top plate and the plate have the same shape, and further wherein the top plate is larger than the plate such that the plate fits within an area defined by the skirt.

On the other hand, Bizlewicz teaches an article for use with spherical vibration-control elements, wherein the article comprises a bottom and top plate (Fig.6, Items 74 and 70), wherein the bottom plate comprises a well (Fig.6, Item 106) defining a circular opening suitably sized to receive the spherical vibration control element (Fig.6, Item 110); wherein the top plate further comprising a skirt (Fig.6, Item 120), wherein the skirt depends from a marginal region of the top plate, and further wherein the skirt extends toward the bottom plate; and wherein the top plate is larger than the plate such that the bottom plate fits within an area defined by the skirt (Fig.6).

It would have been obvious to a person with ordinary skill in the art at the time of the invention was made to employ the Bizlewicz skirt configuration with the Huyett design because the skirt would precludes excessive lateral excursion between the top and bottom plate, which otherwise could disengage the spherical vibration control element from the well, causing uncontrolled and unbiased lateral displacements of the article and having an adverse effect on the integrity of the article.

With respect to claims 7, 8, 14, 19, 20 and 22, the Examiner considers that it would have been an obvious matter of design choice to provide plates and balls of a particular material because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With respect to claims 11, 15, 21 and 26, the Examiner considers that it would have been an obvious matter of design choice to employ less balls than available wells because it has been held that omission of an element and its function in a combination where the remaining elements perform the same function as before involves only routine skill in the art. In re Karlson, 136 USPQ 184; furthermore, it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

With respect to claims 16 – 18, 27 – 32, Huyett teaches the limitations described in the claims (Fig.2; Col.2, Line 49 – Col.3, Line 2 and Col.3, Lines 34 – 58); in addition, it has been held that a recitation with respect to the manner in which a claimed

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apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex Parte Masham*, 2 USPQ F.2d 1647 (1987).

With respect to claim 23, the Examiner considers that it would have been an obvious matter of design choice to the ball does not contact the bottom of the well because it would provide a space in where the ball could expand when subject to a compression force without drastically affecting the distance between the plates; furthermore, it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Response to Arguments

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. The Examiner considers that the patents to Huyett and Bizlewicz teach the limitations described in the claims as discussed above.

Conclusion

5. The attached hereto PTO Form 892 lists prior art made of record that the Examiner considered it pertinent to applicant's disclosure.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

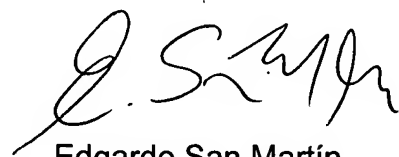
Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edgardo San Martin whose telephone number is (571) 272-2074. The examiner can normally be reached on 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley can be reached on (571) 272-2800 ext.33. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Edgardo San Martín
Primary Examiner
Art Unit 2837
Class 181
May 2, 2006